

MDR Tracking Number: M5-04-0526-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 10-20-03. The requestor withdrew date of service 12-23-02 in this dispute.

The IRO reviewed therapeutic exercises, therapeutic activities, muscle testing, office visits, work hardening, and functional capacity testing rendered from 11-27-02 through 04-17-03 that were denied based upon "U".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity for therapeutic procedures from 01-02-03 through 01-24-03, therapeutic activities, muscle testing for 01-22-03, office visits for 04-10-03 and 04-17-03, work hardening and functional capacity evaluation on 03-27-03. Consequently, the requestor is not owed a refund of the paid IRO fee.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity for therapeutic procedures from 11-27-02 through 12-18-02, office visits on 01-27-03, 02-04-03, and 03-13-03. For the purposes of determining compliance with the order, the Commission will add 20-days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 12-19-03, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
11-01-02	97110	\$140.00	0.00	F	\$35.00 per unit	MFG, MGR (I)(A)(9)(b)	See Rational below
11-05-02	97110	\$140.00	\$35.00	F	\$35.00 per unit		
11-06-02	97110	\$140.00	0.00	F	\$35.00 per unit		
11-07-02	97110	\$140.00		F	\$35.00 per unit		

11-08-02	97110	\$140.00		F	\$35.00 per unit		
11-11-02	97110	\$140.00		F	\$35.00 per unit		
11-12-02	97110	\$140.00		F	\$35.00 per unit	MFG, MGR (I)(A)(9)(b)	See Rational below
11-13-02	97110	\$140.00		F	\$35.00 per unit		
11-14-02	97110	\$140.00	\$70.00	F	\$35.00 per unit		
11-12-02	95999-WP	\$384.00	\$0.00	No EOB	DOP		Soap notes do not support delivery of service. Reimbursement is not recommended
11-22-02	97110	\$140.00	\$70.00		\$35.00 per unit	MFG, MGR (I)(A)(9)(b)	See Rational below
12-16-02	97250	\$43.00	\$21.50	H	\$43.00	MFG MGR (I)(C)(3)	Per rule 133.303 information regarding results of onsite audit were not submitted. Soap notes do confirm delivery of service therefore Recommended Reimbursement \$21.50
	97122	\$35.00	\$17.50	H	\$35.00		Per rule 133.303 information regarding results of onsite audit were not submitted. Soap notes do confirm delivery of service therefore Recommended Reimbursement \$17.50
12-17-02	97265	\$43.00	\$21.50	H	\$43.00	MFG MGR (I)(C)(3)	Per rule 133.303 information regarding results of onsite audit were not submitted. Soap notes do confirm delivery of service therefore Recommended Reimbursement \$21.50
	97250	\$43.00	\$21.50	H	\$43.00	MFG MGR (I)(C)(3)	Per rule 133.303 information regarding results of onsite audit were not submitted. Soap notes do confirm delivery of service therefore Recommended Reimbursement \$21.50
	97122	\$35.00	\$17.50	H	\$35.00		Per rule 133.303 information regarding results of onsite audit were not submitted. Soap notes do confirm delivery of service therefore Recommended Reimbursement \$35.00

	97550MT	\$86.00	\$43.00	H	\$43.00		Per rule 133.303 information regarding results of onsite audit were not submitted. Soap notes do confirm delivery of service therefore Recommended Reimbursement \$43.00
02-05-03	97545WH-AP	\$128.00	0.00	N	\$64.00 per hour	MFG, MGR (II)(C) & (E)	Soap notes for work hardening do not support the work hardening program. Reimbursement is not recommended
	97546WH-AP	\$384.00	0.00	N	\$64.00 per hour		
02-06-03	97545WH-AP	\$128.00	0.00	N	\$64.00 per hour		
	97546WH-AP	\$384.00	0.00	N	\$64.00 per hour		
02-07-03	97545WH-AP	\$128.00	0.00	N	\$64.00 per hour		
	97546WH-AP	\$384.00	0.00	N	\$64.00 per hour		
02-10-03	97545WH-AP	\$128.00	0.00	N	\$64.00 per hour	MFG, MGR (II)(C) & (E)	Soap notes for work hardening do not support the work hardening program. Reimbursement is not recommended
	97546WH-AP	\$384.00	0.00	N	\$64.00 per hour		
02-11-03	97545WH-AP	\$128.00	0.00	N	\$64.00 per hour		
	97546WH-AP	\$384.00	0.00	N	\$64.00 per hour		
02-12-03	97545WH-AP	\$128.00	0.00	N	\$64.00 per hour		
	97546WH-AP	\$384.00	0.00	N	\$64.00 per hour		
02-13-03	97545WH-AP	\$128.00	0.00	N	\$64.00 per hour		
	97546WH-AP	\$384.00	0.00	N	\$64.00 per hour		
02-14-03	97545WH-AP	\$128.00	0.00	N	\$64.00 per hour		
	97546WH-AP	\$384.00	0.00	N	\$64.00 per hour		
02-19-03	97545WH-AP	\$128.00	0.00	N	\$64.00 per hour		
	97546WH-AP	\$384.00	0.00	N	\$64.00 per hour		
02-20-03	97545WH-AP	\$128.00	0.00	No EOB	\$64.00 per hour		

02-21-03, 02-24-03	97545WH- AP (Total of 4 units)	\$128.00 per date of service	0.00	R	\$64.00 per hour	MFG, MGR (II)(C) & (E)	The TWCC database does not show receipt of a TWCC 21 disputing compensability or extent issues. On the basis the CPT codes will be review in accordance with the Medical Fee Guideline. Soap notes support delivery of service. Recommended Reimbursement \$256.00 (\$64.00 for 4 units)
	97546WH- AP (total of 12 units)	\$384.00 per date of service	0.00	R	\$64.00 per hour		The TWCC database does not show receipt of a TWCC 21 disputing compensability or extent issues. On the basis the CPT codes will be review in accordance with the Medical Fee Guideline. Soap notes support delivery of service. Recommended Reimbursement \$768.00 (\$64.00 for 12 units)
02-28-03	97545WH- AP	\$128.00	0.00	N	\$64.00 per hour	MFG, MGR (II)(C) & (E)	Soap notes for work hardening do not support the work hardening program. Reimbursement is not recommended
	97546WH- AP	\$384.00	0.00	N	\$64.00 per hour		
03-03-03	97545WH- AP	\$128.00	0.00	N	\$64.00 per hour		
	97546WH- AP	\$256.00	0.00	N	\$64.00 per hour		
03-04-02	97545WH- AP	\$128.00	0.00	N	\$64.00 per hour		
	97546WH- AP	\$384.00	0.00	N	\$64.00 per hour		
03-05-03	97545WH- AP	\$128.00	0.00	N	\$64.00 per hour		
	97546WH- AP	\$384.00	0.00	N	\$64.00 per hour		
03-06-03	97545WH- AP	\$128.00	0.00	N	\$64.00 per hour	MFG, MGR (II)(C) & (E)	Soap notes for work hardening do not support the work hardening program. Reimbursement is not recommended
	97546WH- AP	\$384.00	0.00	N	\$64.00 per hour		
03-07-03	97545WH- AP	\$128.00	0.00	N	\$64.00 per hour		
	97546WH- AP	\$384.00	0.00	N	\$64.00 per hour		
03-10-03	97545WH- AP	\$128.00	0.00	N	\$64.00 per hour		
	97546WH- AP	\$384.00	0.00	N	\$64.00 per hour		

03-11-03	97545WH-AP	\$128.00	0.00	N	\$64.00 per hour		Soap notes for work hardening do not support the work hardening program. Reimbursement is not recommended
	97546WH-AP	\$384.00	0.00	N	\$64.00 per hour		
03-12-03	97545WH-AP	\$128.00	0.00	N	\$64.00 per hour		
	97546WH-AP	\$384.00	0.00	N	\$64.00 per hour		
TOTAL		\$12309.00					The requestor is entitled to reimbursement of \$ 160.00

RATIONALE

Recent review of disputes involving CPT Code 97110 by the Medical Dispute Resolution section as well as analysis from recent decisions of the State Office of Administrative Hearings indicate overall deficiencies in the adequacy of the documentation of this Code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes "one-on-one." Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division has reviewed the matters in light all of the Commission requirements for proper documentation. The MRD declines to order payment because the SOAP notes do not clearly delineate exclusive one-on-one treatment nor did the requestor identify the severity of the injury to warrant exclusive one-to-one therapy. Additional reimbursement not recommended.

This Decision is hereby issued this 6th day of May 2004.

Georgina Rodriguez
Medical Dispute Resolution Officer
Medical Review Division

ORDER.

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Decision is applicable for dates of service 11-27-02 through 03-13-03 in this dispute.

This Order is hereby issued this 6th day of May 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

REVISED 4/8/04

MDR Tracking Number: M5-04-0526-01

December 15, 2003

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by ___, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

___ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to ___.

REVISED 4/8/04

CLINICAL HISTORY

On ___, patient slipped on a wet floor and fell onto her buttocks, twisting her left knee in the process. The records also suggest that the left knee struck the floor, as well. She then underwent extensive conservative care with a doctor of chiropractic as the primary provider.

REQUESTED SERVICE (S)

Therapeutic exercises, therapeutic activities, muscle testing, office visits, work hardening, work hardening-each additional hour, and functional capacity testing from dates of service 11/27/02 through 4/17/03.

DECISION

The therapeutic procedures (97110) from 11/27/02 through 12/18/02 are approved. The office visits (99213) performed on 1/27/03, 2/4/03 and 3/13/03 are also approved.

The remaining therapeutic procedures from 1/2/03 through 1/24/03 are denied, as are all other remaining services within the date range in question.

RATIONALE/BASIS FOR DECISION

According to the established research guidelines for the management of lower back pain, an 8-week conservative trial of active therapy is reasonable and acceptable, it is well justified in the records submitted, and therefore is deemed medically necessary. However, the lack of patient response documented in the record fails to substantiate the need for this procedure after 12/18/03

and therefore, procedures performed after that date are denied. Additionally, the therapeutic activities (97530) performed through the month of January 2003 are denied as medically unnecessary, as they occurred after this 8-week conservative trial period.

The muscle testing is denied because it was done one day after a similar test with the same CPT code. On 12/23/03, the record clearly states “performed PPE today to assess condition,” which is reasonable after an 8-week conservative treatment protocol to monitor the patient status. However, to perform the same test one day before, particularly when the record failed to even mention the test was needed, failed to specifically “order” the test be performed, failed to suggest what was to be tested, etc., its medical necessity is not supported, and the service is therefore denied.

The office visits (99213) performed on 4/10/03 and 4/17/03 are denied because the documentation submitted indicates that joint mobilizations (97265) were performed on those dates of service, rather than Evaluation and Management codes that require that an “extended” examination and an “extended” history be taken and/or performed.

The work hardening (9545WH-AP) and work hardening each additional hour (95456WH-AP) are denied because the records submitted failed to list each job simulation, failed to compare them to the actual duties involved, and failed to document the actual time spent on the simulation, and whether or not any difficulty was encountered performing the task (per basic TWCC requirements for work hardening/conditioning). In fact, the notes were basically super imposable from one visit to the next, rendering them of little or no value, specifically void of substantiating the patient’s true progress, and/or the need for work hardening.